

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

FILED
OCT 08 2008

UNITED STATES OF AMERICA,

CR 04-30081

Plaintiff,

ORDER

-VS-

ROY TAYLOR,

Defendant.

Defendant pleaded guilty to sexual abuse and was sentenced on June 28, 2005, to 78 months imprisonment. He filed a motion for a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(2) which authorizes the district court to modify a term of imprisonment previously imposed when the defendant was sentenced based upon a sentencing range that has subsequently been lowered by the Sentencing Commission. His motion for a reduction in sentence was denied because no guideline applicable to his sentence has been amended.

Defendant has now filed a "traverse in reply" wherein he frivolously contends that the Federal Bureau of Prisons ("BOP") amended Guidelines § 1B1.10 on March 3, 2008. The BOP does not amend the Federal Sentencing Guidelines. Only the Sentencing Commission does so.

The Sentencing Commission amended § 1B1.10 on March 3, 2008, to clarify that a reduction in sentence is not authorized under 18 U.S.C. § 3582(c)(2) if none of the amendments listed in § 1B1.10(c) is applicable to the defendant. The only Guideline amendment set forth in subsection (c) which occurred after the defendant's sentencing was Amendment 702 which amended typographical errors in the embezzlement and smuggling Guidelines. Neither of these Guidelines were applicable to the defendant's sentence. Accordingly,

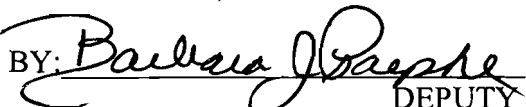
IT IS ORDERED that request for relief, Doc. 54, is denied.

Dated this 8th day of October, 2008.

BY THE COURT:


CHARLES B. KORNMANN
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: 
DEPUTY
(SEAL)